

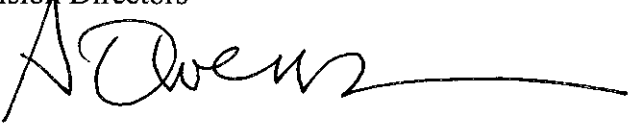


Division of Enforcement

Memorandum

SUBJECT: Guidance¹ Memorandum DE-05-001
Notices of Alleged Violation (NOAVs): Formats and Processes for Warning Letters and Notices of Violation

TO: Regional Directors, Division Directors

FROM: Amy Owens, Director 

DATE: October 26, 2005

Cc: Deputy Regional Directors, Regional Enforcement Representatives, Regional Compliance Auditors, Central Office Enforcement Managers, Central Office Compliance Managers, Rick Linker, Melissa Porterfield, Sharon Baxter, Sharon Brown

Summary and Purpose

On July 1, 2005, Senate Bill 1089² went into effect, codifying certain requirements for "notices of alleged violation" ("NOAVs"). NOAVs are written communications of the Department of Environmental Quality ("Department" or "DEQ") that recite observed facts and legal requirements and that allege violations of laws, regulations, permit conditions, orders, or enforceable certification documents. NOAVs include both Warning Letters and Notices of Violation ("NOVs").

In relevant part, the Virginia Code now states that the issuance of a NOAV by the Department is **not a case decision**³ as defined in Va. Code § 2.2-4001. The Code does require, however, that NOAVs include the following:

- a description of *each* violation;
- the specific provision of law (or regulation, permit condition, etc.) violated; and
- information on the process for obtaining a final decision or fact finding from the Department on whether or not a violation has occurred.⁴

¹ Disclaimer: Guidance documents are developed as guidance and, as such, set forth presumptive operating procedures. Guidance documents do not establish or affect legal rights or obligations; do not establish a binding norm; and are not determinative of the issues addressed. Decisions in individual cases will be made by applying the laws, regulations and policies of the Commonwealth to case-specific facts.

² Upon enactment into law, Senate Bill 1089 became 2005 Acts Chapter 706. The new requirements for NOAVs have been codified at Va. Code §§ 10.1-1309 (A) (vi) (air); 10.1-1455 (G) (waste); and 62.1-44.15 (8a) (water).

³ A NOAV should not state that a facility "has violated" or "is in violation of" a standard or regulation, because that may imply incorrectly that a case decision has been made.

Senate Bill 1089 also required the Director to develop and implement a Process for Early Dispute Resolution (“PEDR”) and to make it “available after the issuance of a notice of alleged violation or other notice of deficiency issued by the Department.” The legislation continues: “[I]nformation on the [PEDR] shall be provided to the public and to facilities potentially impacted by the provisions of this act.” The PEDR has been published on the Department’s website under “Laws & Regulations” and “DEQ regulations” at: http://www.deq.virginia.gov/regulations/pdf/Process_for_Early_Dispute_Resolution_8260532.pdf.⁵

In response to the legislative change, this guidance provides updated formats for Warning Letters and NOV’s and the processes associated with their issuance. To that extent, it supersedes previous guidance.⁶ This guidance does not address the severity categories of specific violations under the various media programs (e.g., whether a violation would constitute a high-priority violation or significant non-compliance). Nor does this guidance address mobile sources.

The formats in this guidance are designed to meet the requirements of Senate Bill 1089 for NOAVs and to be easy to use and understand. This guidance includes both sample format letters and standard format paragraphs for both Warning Letters and NOV’s, which are very similar. The format letters and paragraphs have citations to appropriate authorities for various media. The sample letters in this guidance use factual allegations taken from past DEQ cases to illustrate how certain *kinds* of fact patterns might be represented (e.g., inspection results, emissions tests, discharge monitoring reports). The presentation of the observations and legal requirements in the Warning Letter or NOV may vary slightly depending on the fact pattern. Nevertheless, DEQ staff and management **must** assure that any Warning Letter or NOV meets the NOAV requirements of Senate Bill 1089, described above.

Issuance, response, and resolution of Informal Corrections and NOAV’s should be documented both to the file and to appropriate tracking system (e.g., CEDS).

It is DEQ’s policy to encourage and facilitate correction of alleged violations as early and quickly as possible.

Informal Correction vs. Warning Letter vs. Notice of Violation

Informal Correction: When a minor violation can be corrected in **30 days or less**, and unless otherwise precluded by law or policy,⁷ staff may use Informal Correction to secure compliance from a regulated party.

⁴ The Act reinforces this by stating: “[N]othing in this section shall preclude an owner from seeking such a determination.”

⁵ The requirement for a PEDR is in clause 2 (at the end) of 2005 Acts c. 706. It is not part of a numbered statute and will not be published in the Virginia Code.

⁶ In particular, this guidance supersedes Chapter 2, Sections I (A) through I (C) of the December 1, 1999 Enforcement Manual and the related attachments for Warning Letters and NOV’s.

⁷ Program-specific policies may dictate the use of other, specific mechanisms.

As its name implies, this method is appropriate when a minimal amount of effort is required to secure compliance. Situations that meet all of the following criteria may be appropriate for Informal Correction:

- Deficiencies that can be corrected within 30 days;
- Alleged violations that do not present a threat to human health or the environment;
- Alleged violations that are not substantial deviations from fundamental components of the regulatory program; and
- Facilities/regulated parties that are infrequent violators.

Informal Correction is not appropriate for high-priority violations or significant non-compliance, as defined in the media guidance.

Using Informal Correction, staff detecting the alleged violation communicates their discovery to the responsible official *promptly* using informal means (onsite conversation, fax, telephone, email, multi-part form, or letter). In turn, the responsible official should promptly inform the staffer what is being done to remedy the noncompliance and when corrective action will be completed. Verification that the corrective action has been completed should be provided by the responsible official *in writing or email*. Onsite verification by staff is highly desirable, if resources allow.

If the responsible official fails to be *promptly* cooperative/receptive to the Informal Correction approach, staff should proceed directly to issuance of a Warning Letter.

Warning Letter: Warning Letters are the appropriate response following the discovery of the majority of alleged violations. The fundamental premise underlying the Warning Letter is that if the facility's corrective action response to the Warning Letter is both satisfactory and timely, then the case can be disposed of *without penalty*.

If the situation is not suitable for Informal Correction, then a Warning Letter will likely be appropriate. If the alleged violation falls into one of the NOV-appropriate categories detailed in the next section, however, then a Warning Letter should not be used, and a NOV should be issued.

The Warning Letter should require that the regulated party respond within **20 days of the date of the letter**⁸ either verifying corrective action, or providing a plan and schedule for corrective action. A meeting may be necessary. Presuming that the regulated party's proposal is acceptable:

- No further action memorializing the plan and schedule need be undertaken if corrective action will take **90 days or less**, except for DEQ acknowledgment.

⁸ Warning Letters and NOVs should articulate a date by which the regulated party is to respond, and avoid stating new, extended dates for compliance. Several Virginia courts have interpreted new compliance dates in these kind letters as extensions granted by the Department, thereby restarting the "compliance clock."

- If corrective action will take a **year or less**, then a Letter of Agreement⁹ memorializing the plan and schedule is appropriate, provided the regulated party is cooperative, does not have a history of noncompliance and is not asking for relief from environmental compliance requirements during the course of the corrective action.
- If corrective action will take **longer than a year**¹⁰, or if the regulated party is seeking interim relief from environmental compliance requirements during the course of corrective action, or if there is some documented reason to not have full confidence in the regulated party's ability/commitment to fully perform the corrective action schedule in a timely manner, then a consent order should be used to memorialize the plan and schedule.

In the event that the regulated party fails to adequately respond to the Warning Letter within **30 days of the date of the letter**, then a Notice of Violation should be issued.¹¹

Notice of Violation: A NOV signals that the alleged noncompliance is chronic or acute or of such significance that a case is appropriate for enforcement action and that a penalty may be warranted. NOV's should be issued for any of the following:

- **Chronic** noncompliance, including: repeated or continuing alleged violations by the regulated party despite previous compliance activity;
- **Acute** noncompliance, including: a violation which has substantial potential to or has already impacted human health and/or the environment; a substantive violation of an administrative or judicial order; a violation of an essential program element like failure to report an oil spill or failure to report a statistically significant ground water exceedance in a landfill's monitoring program;
- **EPA Priority** noncompliance, including: High Priority Violations (HPV) in the Air Program; Significant Noncompliers (SNC) in the Hazardous Waste Program; and Significant Noncompliance (SNC) in the Water Program;
- **Seasonal Violations** that need to be elevated quickly to ensure that corrective action is timely; or
- **Other noncompliance** as identified in media-specific guidance, or failure to respond appropriately to a Warning Letter.

NOV's instruct the regulated party to contact DEQ within 10 days of the date of the letter in order to set up a meeting to discuss the alleged violations and discuss next steps, including the possibility of a consent order and penalties.

⁹ A Letter of Agreement is not an enforcement mechanism recognized in the Virginia Code, and therefore is not enforceable as such. However, a Letter of Agreement does provide a clear record that a regulated party understood its environmental compliance responsibilities. See Va. Code § 10.1-1186 (2).

¹⁰ Where a regulated party is fully cooperative in response to a Warning Letter, but needs a Consent Order to accommodate a corrective action schedule of more than a year, it is appropriate to include a notation of the facility's cooperation at the end of the "Findings of Fact/Conclusions of Law" section of the consent order.

¹¹ Note: under program-specific guidance, staff in the Water Program issue Warning Letters for each point in the Compliance Auditing System, unless other, more serious actions are taken.

If alleged noncompliance is ongoing, ideally NOV's should be issued monthly for repetitive or continuing violations until a resolution is achieved. If resources preclude this frequency, then NOV's should be issued at least quarterly for such violations, to avoid the erroneous appearance that facility compliance is not a Department priority and/or that the violation is not serious.

NOAV Format, Content, and Delivery

How to use the NOAV samples and formats. Attached to this guidance are a sample Warning Letter (Attachment 1), sample NOV's for Air, Waste and Water (Attachments 2, 3, and 4), and tables of format paragraphs with references to appropriate authorities (Attachment 5). Since Warning Letters and NOV's are both NOAV's, they are very similar in information and structure. This approach facilitates a user-friendly "cut and paste" approach to assembling the letters and notices, thereby saving staff time. The attached sample letters and tables of interchangeable paragraphs are intended to demonstrate how various types of information (*e.g.*, inspections, data sets, compliance history) might be represented in the body of either a Warning Letter or a NOV. Any DEQ staff with proper authorization from his or her Regional Director can sign a NOAV.

Necessary content: The sample letters show how to satisfy Senate Bill 1089's requirements for: (1) a description of each alleged violation; and (2) the corresponding, specific provision of law, etc., that may have been violated. These two elements are set out in the section of the NOAV entitled: "Observations and Legal Requirements." Each alleged violation is numbered, and separate paragraphs under the number are used for the observations and the legal requirements. The observations lay out the observed facts that underlie an alleged violation. The legal requirements itemize the citation for each violation. To ensure that these elements are present, observations are labeled and in standard font; legal requirements are separately labeled and set in **boldface**. If a table is used, legal requirements are presented in a **boldfaced**, labeled column in the table with clear references to the specific legal authority. It must be clear to any reviewer that both observations and legal requirements are included and are separately identified for each alleged violation, and that a specific provision has been cited for each legal requirement.

Senate Bill 1089 also requires: (1) that information be provided to parties about the process for obtaining a final decision or fact finding from the Department on whether or not a violation has occurred; and (2) that information about the PEDR be provided to facilities potentially impacted by the act. Included language referring to DEQ's new PEDR policy meets these conditions. Finally, Senate Bill 1089 provides that NOAV's are not "case decisions" – this is covered in the samples' introductory paragraphs.

Other attachments: It is always desirable to attach materials to a NOAV which support/clarify the Department's position and enhance the regulated party's understanding. These materials can include inspection reports, photographs, maps and copies of relevant regulation or law. To assure clarity, it is ordinarily best not to address alleged violations at more than one facility in a NOAV.

Delivery and certified mail: It is important to ensure that delivery of NOAVs has been successful. In the past, some media have consistently used certified mail for all NOV. Though use of certified mail is strongly preferred because of the certainty it provides, this approach can be very expensive, and it is therefore recommended at a minimum that certified mail and other receipt-generating delivery methods be employed strategically when effective delivery is uncertain. For the majority of correspondence, staff will know that first class mail has sufficed as they will be contacted by the regulated party as per the instructions in the Warning Letter or NOV. If no response has been received for 30 days from the date of the letter, resending the NOAV certified mail is appropriate. If a regulated party fails to accept or pick up certified mail, other means of providing notice, such as service of process, hand-delivery, or Federal Express Delivery permitting drop off at the registered agent's address might be effective. Staff should discuss an appropriate course with Central Office enforcement in this situation. It is also appropriate to send copies of NOAVs to several different persons besides the responsible official (e.g., registered agent, board of supervisors) to ensure/have evidence that NOAVs have reached facility decision makers.

NOAV Challenges and Corrections

In the event that a regulated party demonstrates that a NOAV is clearly erroneous in part or in whole, then a clarifying letter should be sent to the facility, either correcting and reissuing the NOAV, or indicating that no further DEQ action is warranted on the NOAV, as appropriate.¹² Though NOAVs are not case decisions, they are representative of the Department's perception of facility conditions, and should therefore be accurate. Further, as NOV are frequently reported to EPA as part of grant commitments, and are in turn noted in EPA databases, it is important that these records be as accurate as possible.

In the event that DEQ staff and a regulated party disagree as to interpretations of fact or law, the regulated party can elevate the discussion to agency management via the PEDR.

Questions

Questions regarding this guidance or its application should be directed to appropriate Central Office enforcement staff.

¹² NOAV correction is very unusual, and is only appropriate when the NOAV as issued was wrong -- it is not to be used as a negotiation tool or where there are genuine disagreements as to interpretation of facts or law.

ATTACHMENT 1 - SAMPLE WARNING LETTER (UNDERGROUND STORAGE TANK COMPLIANCE)

Month 00, 2005

CERTIFIED MAIL **(Recommended)**
Return Receipt Requested

Mr. John Sample
Sample Enterprises, Inc.
1 Sample Lane
Sample, Virginia 00000

WARNING LETTER

RE: WL No. 00-00-RO-000
Sample Enterprises, Inc., Complianceville Station, Registration No. 0000

Dear Mr. Sample:

The Department of Environmental Quality (“DEQ” or “the Department”) has reason to believe that the Complianceville Station may be in violation of the State Water Control Law and Regulations.

This letter addresses conditions at the facility named above, and also cites compliance requirements of the State Water Control Law and Regulations. Pursuant to Va. Code § 62.1-44.15 (8a), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 *et seq.* The Department requests that you respond **within 20 days of the date of this letter.**

OBSERVATIONS AND LEGAL REQUIREMENTS

On July 20, 2005, DEQ staff conducted a formal inspection of the underground storage tanks (USTs) at Sample Enterprise, Inc.’s Complianceville Station. File and UST registration documents were also reviewed. The inspection checklist is attached. The following describe the staff’s factual observations and identify the applicable legal requirements:

1. *Observations:* Tank release detection test results for tanks # 2, 3, and 4 were not provided during the inspection.

***Legal Requirements:* 9 VAC 25-580-160 requires an owner or operator to use appropriate release detection methods.**

2. *Observations:* Line and leak detector release detection test results were not provided during the inspection for all three piping and leak detectors associated with tanks # 2, 3, and 4.

Legal Requirements: 9 VAC 25-580-140 (2) (a) (2) requires an owner or operator to test line tightness annually. 9 VAC 25-580-170 (1) requires an owner or operator to test line release detection annually.

3. *Observations:* Financial assurance documents were not available for review during the inspection.

Legal Requirements: 9 VAC 25-590-150 (E) requires an owner or operator to submit evidence of financial assurance as described in 9 VAC 25-590-160.

ENFORCEMENT AUTHORITY

Va. Code § 62.1-44.23 of the State Water Control Law provides for an injunction for any violation of the State Water Control Law, any State Water Control Board rule or regulation, an order, permit condition, standard, or any certificate requirement or provision. Va. Code §§ 62.1-44.15 and 62.1-44.32 provide for a civil penalty up to \$32,500 per day of each violation of the same. In addition, Va. Code § 62.1-44.15 authorizes the State Water Control Board to issue orders to any person to comply with the State Water Control Law and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the State Water Control Law and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 62.1-44.32 (b) and 62.1-44.32 (c) provide for other additional penalties.

The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

FUTURE ACTIONS

After reviewing this letter, please respond in writing to DEQ **within 20 days of the date of this letter** detailing actions you have taken or will be taking to ensure compliance with state law and regulations. If corrective action will take longer than 90 days to complete, you may be asked to sign a Letter of Agreement or enter into a Consent Order with the Department to formalize the plan and schedule. *It is DEQ policy that appropriate, timely corrective action undertaken in response to a Warning Letter will avoid adversarial enforcement proceedings and the assessment of civil charges or penalties.*

Please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in

DEQ's Process for Early Dispute Resolution. If you complete the Process for Early Dispute Resolution and are not satisfied with the resolution, you may request in writing that DEQ take all necessary steps to issue a case decision where appropriate. For further information on the Process for Early Dispute Resolution, please visit the Department's website under "Laws & Regulations" and "DEQ regulations" at:

http://www.deq.virginia.gov/regulations/pdf/Process_for_Early_Dispute_Resolution_8260532.pdf or ask the DEQ contact listed below.

Your contact at DEQ in this matter is Environmental Staffer. Please direct written materials to her attention. If you have questions or wish to arrange a meeting, you may reach her directly at (000) 000-0000 or eestaffer@deq.virginia.gov.

Sincerely,

Sam Hardtack
Water/UST Enforcement Manager

cc: CASE FILE
SPECIALIST
MEDIA MANAGER

ATTACHMENT 2 - SAMPLE NOV (SUBMITTED AIR DATA REVIEW)

Month 00, 2005

CERTIFIED MAIL **(Recommended)**
Return Receipt Requested

Mr. John Sample
Sample Enterprises, Inc.
1 Sample Lane
Sample, Virginia 00000

NOTICE OF VIOLATION

RE: NOV No. 00-00-RO-000
Sample Enterprises, Inc., Complianceville Facility, Permit No. 0000

Dear Mr. Sample:

This letter notifies you of information upon which the Department of Environmental Quality ("Department" or "DEQ") may rely in order to institute an administrative or judicial enforcement action. Based on this information, DEQ has reason to believe that the Complianceville facility may be in violation of the Air Pollution Control Law and Regulations.

This letter addresses conditions at the facility named above, and also cites compliance requirements of the Air Pollution Control Law and Regulations. Pursuant to Va. Code § 10.1-1309 (A) (vi), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 *et seq.* The Department requests that you respond **within 10 days of the date of this letter.**

OBSERVATIONS AND LEGAL REQUIREMENTS

On March 2 and 3, 2005, Happy Environmental Testing, Inc. of Happy, NC conducted quantitative tests for particulate emissions from the three (3) Converta Kiln boilers at the Sample Enterprises, Complianceville facility. Stack test results were received by the Verybest Regional Office of DEQ on March 24, 2005. The following describe the staff's factual observations (stack test results) and identify the applicable legal requirements.

<u>Boiler No.1 low load</u>	<u>TEST</u>	<u>Legal Requirements*</u>
PM, lb/hr (unit No. 1 low load)	5.442	4.72
PM, lb/MMBtu (unit No. 1 low load)	0.2882	0.16

<u>Boiler No.2 low load</u>	<u>TEST</u>	<u>Legal Requirements*</u>
PM, lb/hr (unit No. 2 low load)	13.267	4.72
PM, lb/MMBtu (unit No. 2 low load)	0.576	0.16
<u>Boiler No.3 low load</u>	<u>TEST</u>	<u>Legal Requirements*</u>
PM, lb/hr (unit No. 3 low load)	4.347	4.72
PM, lb/MMBtu (unit No. 3 low load)	0.2335	0.16
<u>Boiler No.1 high load</u>	<u>TEST</u>	<u>Legal Requirements*</u>
PM, lb/hr (unit No. 1 high load)	9.46	4.72
PM, lb/MMBtu (unit No. 1 high load)	0.7637	0.16
<u>Boiler No.2 high load</u>	<u>TEST</u>	<u>Legal Requirements*</u>
PM, lb/hr (unit No. 2 high load)	9.003	4.72
PM, lb/MMBtu (unit No. 2 high load)	0.1574	0.16
<u>Boiler No.3 high load</u>	<u>TEST</u>	<u>Legal Requirements*</u>
PM, lb/hr (unit No. 3 high load)	7.505	4.72
PM, lb/MMBtu (unit No. 3 high load)	0.2381	0.16

***Permit condition No. 20 of the facility permit of May 31, 2002 (as amended September 4, 2003) New Source Review Permit and permit condition No. IV. 6 of April 23, 2003 Virginia Title V Operating Permit limits particulate emissions to 4.72 lb/hr per unit and 0.16 lbs/MMBtu.**

***9 VAC 5-170-160 (A) – (Conditions on Approvals) of the Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution states in part: “The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with the regulations of the board. Except as otherwise specified, nothing in this chapter shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to the conditions, the board may automatically cancel the permit or approvals. This section shall apply, but not be limited, to approval of variances, approval of control programs, and granting of permits.”**

***Va. Code § 10.1-1322 (A) gives the Department the authority to issue, amend, revoke or terminate and reissue permits, and failure to comply with any condition of a permit is considered a violation of the Air Pollution Control Law.**

ENFORCEMENT AUTHORITY

Va. Code § 10.1-1316 of the Air Pollution Control Law provides for an injunction for any violation of the Air Pollution Control Law, the Air Board regulations, an order, or permit

condition, and provides for a civil penalty up to \$32,500 per day of each violation of the Air Pollution Control Law, regulation, order, or permit condition. In addition, Va. Code §§ 10.1-1307 and 10.1-1309 authorizes the Air Pollution Control Board to issue orders to any person to comply with the Air Pollution Control Law and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Air Pollution Control Law and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 10.1-1320 and 10.1-1309.1 provide for other additional penalties.

The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

FUTURE ACTIONS

DEQ staff wishes to discuss all aspects of their observations with you, including any actions needed ensure compliance with state law and regulations, any relevant or related measures you plan to take or have taken, and a schedule, as needed, for further activities. In addition, please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In order to avoid adversarial enforcement proceedings, Sample Enterprises, Inc. may be asked to enter into a Consent Order with the Department to formalize a plan and schedule of corrective action and to settle any outstanding issues regarding this matter, including the assessment of civil charges.

In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ's Process for Early Dispute Resolution. If you complete the Process for Early Dispute Resolution and are not satisfied with the resolution, you may request in writing that DEQ take all necessary steps to issue a case decision where appropriate. For further information on the Process for Early Dispute Resolution, please visit the Department's website under "Laws & Regulations" and "DEQ regulations" at: http://www.deq.virginia.gov/regulations/pdf/Process_for_Early_Dispute_Resolution_8260532.pdf or ask the DEQ contact listed below.

Please contact Environmental Staffer at (000) 000-0000 or estaffer@deq.virginia.gov **within 10 days of the date of this letter** to discuss this matter and arrange a meeting.

Sincerely,

Sam Hardtack
Air Enforcement Manager

cc: CASE FILE
SPECIALIST
MEDIA MANAGER

ATTACHMENT 3 - SAMPLE NOV (WASTE INSPECTION)

Month 00, 2005

CERTIFIED MAIL **(Recommended)**
Return Receipt Requested

Mr. John Sample
Sample Landfills of Virginia, Inc.
1 Sample Lane
Sample, Virginia 00000

NOTICE OF VIOLATION

RE: NOV No. 00-00-RO-000
Sample Landfills of Virginia, Inc., Complianceville Landfill Facility, Permit No. 579

Dear Mr. Sample:

This letter notifies you of information upon which the Department of Environmental Quality ("Department" or "DEQ") may rely in order to institute an administrative or judicial enforcement action. Based on this information, DEQ has reason to believe that the Complianceville facility may be in violation of the Waste Management Law and Regulations.

This letter addresses conditions at the facility named above, and also cites compliance requirements of the Waste Management Law and Regulations. Pursuant to Va. Code § 10.1-1455 (G), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 *et seq.* The Department requests that you respond **within 10 days of the date of this letter.**

OBSERVATIONS AND LEGAL REQUIREMENTS

On December 18, 2003, DEQ Verybest Regional Office staff conducted a compliance inspection of the Complianceville Landfill. A copy of the inspection report is attached. Staff also reviewed documents provided to DEQ during the course of the inspection. The following describe the staff's factual observations and identify the applicable legal requirements:

1. *Observations:* The area of the working face was estimated to be 135 ft x 102 ft. (13,770 square feet total area).¹³

¹³ This same condition was previously cited in Notice of Violation ("NOV") No. NOV # WS-02-08-VRO-030 issued to Sample Landfills of Virginia, Inc. on August 30, 2002, NOV # WS-03-03-VRO-033 issued to Sample

Legal Requirements: Attachment II-1, Title 4.2.G of the Permit states that the working face will be approximately 2,500 square feet (or 50 ft x 50 ft). Pursuant to 9 VAC 20-80-240 (B) of the Virginia Solid Waste Management Regulations (“VSWMR”), this solid waste disposal facility shall be maintained and operated in accordance with the permit issued, and in accordance with the approved design and intended use of the facility. Pursuant to 9 VAC 20-80-480 (A) of the VSWMR, no person shall construct, operate or modify a solid waste management facility in this Commonwealth without a permit issued by the Director.

2. *Observations:* Complianceville landfill is receiving waste tonnages in excess of 250 tons per day. Since the last inspection (August 5, 2003), the landfill has received tonnages in excess of 250 tons per day, the average tonnage received in December (1st through 17th) was approximately 1,122 tons per day.¹⁴

Legal Requirements: As stated in Title 4.2.G of Permit Attachment II-1, Operations Manual, the daily working face is based upon the projected waste stream of 250 tons per day. Also, as stated in Title 8.1 of Permit Attachment III-2, Design Report, the filling operations, lift heights, and cover soil requirements are based upon 250 tons per day. Pursuant to 9 VAC 20-80-240 (B) of the VSWMR, this solid waste disposal facility shall be maintained and operated in accordance with Attachment II-1, Title 4.2.G of the permit issued, and in accordance with the approved design and intended use of the facility. Pursuant to 9 VAC 20-80-480 (A) of the VSWMR, no person shall construct, operate or modify a solid waste management facility in this Commonwealth without a permit issued by the Director.

3. *Observations:* There was ponded water on top of the landfill.¹⁵

Legal Requirements: Title 4.4.E of Permit Attachment II-1, Operations Manual and 9 VAC 20-80-250 (B) (6) (c) require, in part, that intermediate cover and drainage structures be in place to prevent ponding and to minimize infiltration of water into solid waste cells. 9 VAC 20-80-250 (C) (11) requires owners or operators to maintain these run-off control systems.

Landfills of Virginia, Inc. on March 21, 2003, NOV #WS-03-05-VRO-034 issued to Sample Landfills of Virginia, Inc. on May 28, 2003, and NOV #WS--03--08--VRO--035 issued to Sample Landfills of Virginia, Inc. on September 2, 2003.

¹⁴ This same condition was previously cited in NOV # WS-02-08-VRO-030 issued to Sample Landfills of Virginia, Inc. on August 30, 2002, in NOV #WS-03-03-VRO-033 issued to Sample Landfills of Virginia, Inc. on March 21, 2003, in NOV #WS-03-05-VRO-034 issued to Sample Landfills of Virginia, Inc. on May 28, 2003, and NOV #WS--03--08--VRO--035 issued to Sample Landfills of Virginia, Inc. on September 2, 2003.

¹⁵ Ponded water on top of the landfill was also observed during the July 7, 2003 site visit and August 5, 2003 inspection, and was previously cited in NOV #WS--03--08--VRO--035 issued to Sample Landfills of Virginia, Inc. on September 2, 2003

4. *Observations:* There were uneven and eroded areas on the external slopes of cells 1 and 2. Compacted soil was not present on the interior slopes of cells 6, 7, and 3. On the exterior slopes of cell 1, there was a large area that appeared unstable and had shifted down-slope.

Legal Requirements: Title 4.4.E of Permit Attachment II-1, Operations Manual, and 9 VAC 20-80-250 (C) (2) (d) of the VSWMR require intermediate cover of at least 6 inches of additional compacted soil be applied whenever an additional lift of refuse is not to be applied within 30 days. Further, these sections require that all areas with intermediate cover shall be inspected as needed, but not less than weekly. Additional cover material shall be placed on all cracked, eroded, and uneven areas as required to maintain the integrity of the intermediate cover system.

5. *Observations:* Leachate appeared to have overflowed the collection sump onto the ground around the sump area.

Legal Requirements: Attachment II-1, Title 5.1.D of the permit requires that all components of the leachate collection system be inspected and maintained to achieve its intended function.

6. *Observations:* There were waste containers stored in the truck and container area that contained waste material. One container held sludge, another held concrete, and one contained construction/demolition/debris ("C/D/D"). The container with sludge had discharged a dark liquid onto the ground.

Legal Requirements: Attachment II-1, Title 4.2.G of the permit does not permit the storage or discharge of waste in the truck and container area.

ENFORCEMENT AUTHORITY

Va. Code § 10.1-1455 of the Waste Management Act provides for an injunction for any violation of the Waste Management Act, Waste Management Board regulations, an order, or permit condition, and provides for a civil penalty up to \$32,500 per day of each violation of the Waste Management Act, regulation, order, or permit condition. In addition, Va. Code § 10.1-1455 (G) authorizes the Waste Management Board to issue orders to any person to comply with the Waste Management Act and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Waste Management Act and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 10.1-1455 (D) and 10.1-1455 (I) provide for other additional penalties.

The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

FUTURE ACTIONS

DEQ staff wishes to discuss all aspects of their observations with you, including any actions needed ensure compliance with state law and regulations, any relevant or related measures you plan to take or have taken, and a schedule, as needed, for further activities. In addition, please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In order to avoid adversarial enforcement proceedings, Sample Landfills of Virginia, Inc. may be asked to enter into a Consent Order with the Department to formalize a plan and schedule of corrective action and to settle any outstanding issues regarding this matter, including the assessment of civil charges.

In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ's Process for Early Dispute Resolution. If you complete the Process for Early Dispute Resolution and are not satisfied with the resolution, you may request in writing that DEQ take all necessary steps to issue a case decision where appropriate. For further information on the Process for Early Dispute Resolution, please visit the Department's website under "Laws & Regulations" and "DEQ regulations" at: http://www.deq.virginia.gov/regulations/pdf/Process_for_Early_Dispute_Resolution_8260532.pdf or ask the DEQ contact listed below.

Please contact Environmental Staffer at (000) 000-0000 or ee staffer@deq.virginia.gov **within 10 days of the date of this letter** to discuss this matter and arrange a meeting.

Sincerely,

Sam Hardtack
Waste Enforcement Manager

cc: CASE FILE
SPECIALIST
MEDIA MANAGER

ATTACHMENT 4 - SAMPLE NOV (WATER DMR DATA)

Month 00, 2005

CERTIFIED MAIL **(Recommended)**
Return Receipt Requested

Mr. John Sample
Sample Wastewater Ltd.
1 Sample Lane
Sample, Virginia 00000

NOTICE OF VIOLATION

RE: NOV No. 00-00-RO-000
Sample Wastewater Ltd., Complianceville Facility, VPDES Permit No. 0000

Dear Mr. Sample:

This letter notifies you of information upon which the Department of Environmental Quality ("Department" or "DEQ") may rely in order to institute an administrative or judicial enforcement action. Based on this information, DEQ has reason to believe that the Complianceville facility may be in violation of the State Water Control Law and Regulations.

This letter addresses conditions at the facility named above, and also cites compliance requirements of the State Water Control Law and Regulations. Pursuant to Va. Code § 62.1-44.15 (8a), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 *et seq.* The Department requests that you respond **within 10 days of the date of this letter.**

OBSERVATIONS AND LEGAL REQUIREMENTS

Sample Wastewater Ltd., submitted discharge monitoring reports (DMRs) to DEQ's Verybest Regional Office, including the following *relevant* data results. The following describe the staff's factual observations and identify the applicable legal requirements.

Parameter	Observations - DMR Monitoring Period and Relevant Reported Monitoring Results									Legal Req.*
	09/04	10/04	11/04	12/04	01/05	02/05	03/05	04/05	05/05	
Total Recoverable Copper average and maximum concentration (µg/L)	10	26	18	28	41	53	94	61	12	5.8
Total Recoverable Zinc average and Maximum Concentration (µg/L)	354	206	195	510	436	389	298	179	205	40
TKN average concentration (mg/L)	7.3	4.2	4.5	4.5	17.6	25.3	23.2	12.5	7.3	3
TKN maximum concentration (mg/L)		19.8		6.4	5.8	22.8	28	33	17.7	4.5
TSS average concentration (mg/L)				20.4	22.4	14				10
TSS maximum concentration (mg/L)			19.6	35.5	32.4	20				15
DO minimum concentration (mg/L)				7	8					9
CBOD ₅ average concentration (mg/L)				16	15.5	13.8				10
CBOD ₅ maximum concentration (mg/L)				41.6	23.4	18.5				15
pH						no data				

*** The VPDES permit for this facility, issued May 31, 2002 and amended September 4, 2004, contains conditions that enumerate the effluent limitations in this column. Va. Code § 62.1-44.5 prohibits waste discharges or other quality alterations of state waters except as authorized by permit. 9 VAC 25-31-50 provides that “except in compliance with a VPDES permit, or another permit, issued by the board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”**

ENFORCEMENT AUTHORITY

Va. Code § 62.1-44.23 of the State Water Control Law provides for an injunction for any violation of the State Water Control Law, any State Water Control Board rule or regulation, an order, permit condition, standard, or any certificate requirement or provision. Va. Code §§ 62.1-44.15 and 62.1-44.32 provide for a civil penalty up to \$32,500 per day of each violation of the same. In addition, Va. Code § 62.1-44.15 authorizes the State Water Control Board to issue orders to any person to comply with the State Water Control Law and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the State

Water Control Law and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 62.1-44.32 (b) and 62.1-44.32 (c) provide for other additional penalties.

The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

FUTURE ACTIONS

DEQ staff wishes to discuss all aspects of their observations with you, including any actions needed ensure compliance with state law and regulations, any relevant or related measures you plan to take or have taken, and a schedule, as needed, for further activities. In addition, please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In order to avoid adversarial enforcement proceedings, Sample Enterprises, Inc. may be asked to enter into a Consent Order with the Department to formalize a plan and schedule of corrective action and to settle any outstanding issues regarding this matter, including the assessment of civil charges.

In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ's Process for Early Dispute Resolution. If you complete the Process for Early Dispute Resolution and are not satisfied with the resolution, you may request in writing that DEQ take all necessary steps to issue a case decision where appropriate. For further information on the Process for Early Dispute Resolution, please visit the Department's website under "Laws & Regulations" and "DEQ regulations" at: http://www.deq.virginia.gov/regulations/pdf/Process_for_Early_Dispute_Resolution_8260532.pdf or ask the DEQ contact listed below.

Please contact Environmental Staffer at (000) 000-0000 or eestaffer@deq.virginia.gov **within 10 days of the date of this letter** to discuss this matter and arrange a meeting.

Sincerely,

Sam Hardtack
Water Enforcement Manager

cc: CASE FILE
SPECIALIST
MEDIA MANAGER

ATTACHMENT 5 – TABLES OF STANDARD PARAGRAPHS

Notice of Alleged Violation Authority Paragraphs – for both Warning Letters and NOVs (language in brackets is for NOVs only)	
Air	<p style="text-align: center;">(Warning Letter first paragraphs)</p> <p>The Department of Environmental Quality (“DEQ” or “the Department”) has reason to believe that the Complianceville facility may be in violation of the Air Pollution Control Law and Regulations.</p> <p>This letter addresses conditions at the facility named above, and also cites compliance requirements of the Air Pollution Control Law and Regulations. Pursuant to Va. Code § 10.1-1309 (A) (vi), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 et seq. The Department requests that you respond within 20 days of the date of this letter.</p> <p style="text-align: center;">(NOV first paragraphs)</p> <p>This letter notifies you of information upon which the Department of Environmental Quality (“Department” or “DEQ”) may rely in order to institute an administrative or judicial enforcement action. Based on this information, DEQ has reason to believe that the Complianceville facility may be in violation of the Air Pollution Control Law and Regulations.</p> <p>This letter addresses conditions at the facility named above, and also cites compliance requirements of the Air Pollution Control Law and Regulations. Pursuant to Va. Code § 10.1-1309 (A) (vi), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 et seq. The Department requests that you respond within 10 days of the date of this letter.</p> <p style="text-align: center;">(Enforcement Authority)</p> <p>Va. Code § 10.1-1316 of the Air Pollution Control Law provides for an injunction for any violation of the Air Pollution Control Law, the Air Board regulations, an order, or permit condition, and provides for a civil penalty up to \$32,500 per day of each violation of the Air Pollution Control Law, regulation, order, or permit condition. In addition, Va. Code §§ 10.1-1307 and 10.1-1309 authorizes the Air Pollution Control Board to issue orders to any person to comply with the Air Pollution Control Law and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Air Pollution Control Law and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 10.1-1320 and 10.1-1309.1 provide for other additional penalties.</p>

	<p>The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.</p>
<p>Water and UST (Art. 9)</p>	<p>(Warning Letter first paragraphs)</p> <p>The Department of Environmental Quality (“DEQ” or “the Department”) has reason to believe that the Complianceville facility may be in violation of the State Water Control Law and Regulations.</p> <p>This letter addresses conditions at the facility named above, and also cites compliance requirements of the State Water Control Law and Regulations. Pursuant to Va. Code § 62.1-44.15 (8a), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 et seq. The Department requests that you respond within 20 days of the date of this letter.</p> <p>(NOV first paragraphs)</p> <p>This letter notifies you of information upon which the Department of Environmental Quality (“Department” or “DEQ”) may rely in order to institute an administrative or judicial enforcement action. Based on this information, DEQ has reason to believe that the Complianceville facility may be in violation of the State Water Control Law and Regulations.</p> <p>This letter addresses conditions at the facility named above, and also cites compliance requirements of the State Water Control Law and Regulations. Pursuant to Va. Code § 62.1-44.15 (8a), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 et seq. The Department requests that you respond within 10 days of the date of this letter.</p> <p>(Enforcement Authority)</p> <p>Va. Code § 62.1-44.23 of the State Water Control Law provides for an injunction for any violation of the State Water Control Law, any State Water Control Board rule or regulation, an order, permit condition, standard, or any certificate requirement or provision. Va. Code §§ 62.1-44.15 and 62.1-44.32 provide for a civil penalty up to \$32,500 per day of each violation of the same. In addition, Va. Code § 62.1-44.15 authorizes the State Water Control Board to issue orders to any person to comply with the State Water Control Law and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the State Water Control Law and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 62.1-44.32 (b) and 62.1-44.32 (c) provide for other additional penalties.</p>

	<p>The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.</p>
Waste	<p>(Warning Letter first paragraphs)</p> <p>The Department of Environmental Quality (“DEQ” or “the Department”) has reason to believe that the Complianceville facility may be in violation of the Waste Management Law and Regulations.</p> <p>This letter addresses conditions at the facility named above, and also cites compliance requirements of the Waste Management Law and Regulations. Pursuant to Va. Code § 10.1-1455 (G), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 et seq. The Department requests that you respond within 20 days of the date of this letter.</p> <p>(NOV first paragraphs)</p> <p>This letter notifies you of information upon which the Department of Environmental Quality (“Department” or “DEQ”) may rely in order to institute an administrative or judicial enforcement action. Based on this information, DEQ has reason to believe that the Complianceville facility may be in violation of the Waste Management Law and Regulations.</p> <p>This letter addresses conditions at the facility named above, and also cites compliance requirements of the Waste Management Law and Regulations. Pursuant to Va. Code § 10.1-1455 (G), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 et seq. The Department requests that you respond within 10 days of the date of this letter.</p> <p>(Enforcement Authority)</p> <p>Va. Code § 10.1-1455 of the Waste Management Act provides for an injunction for any violation of the Waste Management Act, Waste Management Board regulations, an order, or permit condition, and provides for a civil penalty up to \$32,500 per day of each violation of the Waste Management Act, regulation, order, or permit condition. In addition, Va. Code § 10.1-1455 (G) authorizes the Waste Management Board to issue orders to any person to comply with the Waste Management Act and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Waste Management Act and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 10.1-1455 (D) and 10.1-1455 (I) provide for other additional penalties.</p> <p>The Court has the inherent authority to enforce its injunction, and is</p>

	authorized to award the Commonwealth its attorneys' fees and costs.
Oil Discharges and AST (Art. 11)	<p style="text-align: center;">(Warning Letter first paragraphs)</p> <p>The Department of Environmental Quality (“DEQ” or “the Department”) has reason to believe that the Complianceville facility may be in violation of the State Water Control Law and Regulations.</p> <p>This letter addresses conditions at the facility named above, and also cites compliance requirements of the State Water Control Law and Regulations. Pursuant to Va. Code § 62.1-44.15 (8a), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 et seq. The Department requests that you respond within 20 days of the date of this letter.</p> <p style="text-align: center;">(NOV first paragraphs)</p> <p>This letter notifies you of information upon which the Department of Environmental Quality (“Department” or “DEQ”) may rely in order to institute an administrative or judicial enforcement action. Based on this information, DEQ has reason to believe that the Complianceville facility may be in violation of the State Water Control Law and Regulations.</p> <p>This letter addresses conditions at the facility named above, and also cites compliance requirements of the State Water Control Law and Regulations. Pursuant to Va. Code § 62.1-44.15 (8a), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 et seq. The Department requests that you respond within 10 days of the date of this letter.</p> <p style="text-align: center;">(Enforcement Authority)</p> <p>Va. Code § 62.1-44.34:20 of the State Water Control Law provides for an injunction for any violation of Article 11 of the State Water Control Law, and any State Water Control Board regulation, administrative or judicial order, or any term or condition of approval issued pursuant to Article 11; and provides for a civil penalty of up to \$100,000 per violation depending on the type of violation, with additional civil penalties to be assessed for each additional day of violation. Va. Code §§ 62.1-44.15 and 62.1-44.34:20 also authorizes the State Water Control Board to issue orders to any person to comply with Article 11 of the State Water Control Law and regulations, including the imposition of a civil penalty for violations, of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with Article 11 of the State Water Control Law and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 62.1-44.34:20 (E), (F), and (G) provide for other additional penalties.</p> <p style="text-align: center;">The Court has the inherent authority to enforce its injunction, and is</p>

	authorized to award the Commonwealth its attorneys' fees and costs.
Ground Water Management Act	<p style="text-align: center;">(Warning Letter first paragraphs)</p> <p>The Department of Environmental Quality (“DEQ” or “the Department”) has reason to believe that the Complianceville facility may be in violation of the Ground Water Management Act and Regulation.</p> <p>This letter addresses conditions at the facility named above, and also cites compliance requirements of the Ground Water Management Act and Regulation. This letter is not intended as a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 et seq. The Department requests that you respond within 20 days of the date of this letter.</p> <p style="text-align: center;">(NOV first paragraphs)</p> <p>This letter notifies you of information upon which the Department of Environmental Quality (“Department” or “DEQ”) may rely in order to institute an administrative or judicial enforcement action. Based on this information, DEQ has reason to believe that the Complianceville facility may be in violation of the Ground Water Management Act and Regulation.</p> <p>This letter addresses conditions at the facility named above, and also cites compliance requirements of the Ground Water Management Act and Regulation. This letter is not intended as a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 et seq. The Department requests that you respond within 10 days of the date of this letter.</p> <p style="text-align: center;">(Enforcement Authority)</p> <p>Va. Code § 62.1-269 of the Ground Water Management Act provides for an injunction for any violation of the Ground Water Management Act, any regulation issued pursuant to the Ground Water Management Act, or of any order, permit condition, standard or any certificate requirement or provision. Va. Code § 62.1-270 of the Ground Water Management Act provides for a civil penalty up to \$25,000 per day of each violation. Va. Code § 62.1-268 authorizes the Board to issue special orders to persons for such violations. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Ground Water Management Act and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 62.1-270 (B) and 62.1-270 (C) provide for other additional penalties.</p> <p>The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.</p>

Notice of Alleged Violation "Future Actions" Paragraphs	
<p>For a Warning Letter</p>	<p>After reviewing this letter, please respond in writing to DEQ within 20 days of the date of this letter detailing actions you have taken or will be taking to ensure compliance with state law and regulations. If corrective action will take longer than 90 days to complete, you may be asked to sign a Letter of Agreement or enter into a Consent Order with the Department to formalize the plan and schedule. <i>It is DEQ policy that appropriate, timely, corrective action undertaken in response to a Warning Letter will avoid adversarial enforcement proceedings and the assessment of civil charges or penalties.</i></p> <p>Please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ's Process for Early Dispute Resolution. If you complete the Process for Early Dispute Resolution and are not satisfied with the resolution, you may request in writing that DEQ take all necessary steps to issue a case decision where appropriate. For further information on the Process for Early Dispute Resolution, please visit the Department's website under "Laws & Regulations" and "DEQ regulations" at: http://www.deq.virginia.gov/regulations/pdf/Process_for_Early_Dispute_Resolution_8260532.pdf or ask the DEQ contact listed below.</p> <p>Your contact at DEQ in this matter is Environmental Staffer. Please direct written materials to her attention. If you have questions or wish to arrange a meeting, you may reach her directly at (000) 000-0000 or eestaffer@deq.virginia.gov.</p>
<p>For a NOV</p>	<p>DEQ staff wishes to discuss all aspects of their observations with you, including any actions needed ensure compliance with state law and regulations, any relevant or related measures you plan to take or have taken, and a schedule, as needed, for further activities. In addition, please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In order to avoid adversarial enforcement proceedings, Sample Enterprises, Inc. may be asked to enter into a Consent Order with the Department to formalize a plan and schedule of corrective action and to settle any outstanding issues regarding this matter, including the assessment of civil charges.</p> <p>In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ's Process for Early Dispute Resolution. If you complete the Process for Early Dispute Resolution and are not satisfied with the resolution, you may request in writing that DEQ take all necessary steps to issue a case decision where appropriate. For further information on the Process for Early Dispute Resolution,</p>

	<p>please visit the Department's website under "Laws & Regulations" and "DEQ regulations" at: http://www.deq.virginia.gov/regulations/pdf/Process_for_Early_Dispute_Resolution_8260532.pdf or ask the DEQ contact listed below.</p>
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Please contact Environmental Staffer at (000) 000-0000 or ee staffer@deq.virginia.gov **within 10 days of the date of this letter** to discuss this matter and arrange a meeting.